



SUSSEX COUNTY COUNCIL

AGENDAS & MINUTES

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 1, 2011

Call to Order A regularly scheduled meeting of the Sussex County Council was held on Tuesday, February 1, 2011, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Michael H. Vincent	President
Samuel R. Wilson, Jr.	Vice President
George B. Cole	Councilman
Joan R. Deaver	Councilwoman
Vance Phillips	Councilman
David Baker	County Administrator
Susan M. Webb	Finance Director
Hal Godwin	Deputy Administrator
J. Everett Moore	County Attorney

The Invocation and Pledge of Allegiance were led by Mr. Vincent.

Mr. Vincent called the meeting to order.

M 063 11 A Motion was made by Mr. Phillips, seconded by Mrs. Deaver, to amend
Amend the Agenda by deleting “Executive Session – Personnel, Pending/Potential
and Litigation and Land Acquisition” and “Possible Action on Executive
Approve Session Items”, and to approve the Agenda, as amended.
Agenda

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
 Mr. Phillips, Yea; Mr. Wilson, Yea;
 Mr. Vincent, Yea

Minutes The minutes of January 18 and January 25, 2011 were approved by consent.

**Corre-
spondence**

Mr. Moore read the following correspondence:

DELAWARE STATE POLICE TROOP 4, GEORGETOWN, DELAWARE.
RE: Letter in appreciation of donation for the Delaware State Police Troop 4 Explorer Program.

REHOBOTH BEACH HISTORICAL SOCIETY, REHOBOTH BEACH, DELAWARE.

RE: Letter in appreciation of grant for the Rehoboth Beach Museum.

**SEDAC
Project
Approvals
Recom-
mendation**

Mr. Baker introduced Patti Grimes, Chair of the Sussex Economic Development Action Committee (SEDAC).

Mr. Baker reported that the Sussex County Planning and Zoning Commission received a letter from Patti Grimes requesting that the Commission consider adding a 12 month time extension to approved Residential Planned Communities (RPCs), Conditional Uses, and Subdivisions due to the current economic conditions. Mr. Baker reported that the current time limits are: Conditional Uses – three years from the date of approval by the County Council; Subdivisions – preliminary plan approvals are valid for 3 years and final approvals are valid for 5 years from the date of recordation; RPCs are valid for five years from the date of approval by the County Council.

Ms. Grimes introduced other members of the Committee in attendance: Joe Conaway, Rob Rider, Ernie Felici, Hal Godwin, David Baker, and Julie Wheatley. Ms. Grimes stated that SEDAC represents education and all the small businesses in the County, including agriculture, finance, and developers. She reported that SEDAC recently engaged in a discussion regarding the various developments in the County that are approved yet are struggling to progress given the current economic and market conditions. She noted that many developers are vested in their properties and over time, have spent significant financial resources, time and planning to position their development to succeed when the market turns. Ms. Grimes stated that SEDAC discussed what could be done to provide relief to developers to help prevent the abandonment of projects.

Ms. Grimes explained that the one year time extension would provide adequate time for developers to seek additional financial support, if necessary, and to continue progress in their developments and at the same time anticipate a change in market conditions. If these permits expire, the possibility exists that the local economy may be stymied if these projects must reapply for permits when market conditions improve.

Ms. Grimes stated that research has shown that other states have permitted extensions, including Pennsylvania, New Jersey, Massachusetts and North Carolina. Ms. Grimes stated that some of the states are providing up to a five year extension. This was done to eliminate unnecessary delays and costs associated with re-permitting once the market turns. Additionally, this will provide some predictability to states and financing arms when the market does turn.

Joe Conaway, member of SEDAC, stated that this proposal would not only

**SEDAC
Project
Approvals
Recom-
mendation
(continued)**

benefit the developers, but also the community; additionally, it will protect the base industries in this County which is tourism and agriculture. He noted that not only the developer, but also the County, has expended money to get the projects through the system. Mr. Conaway stated that “you cannot borrow money today” and it is almost impossible to obtain a bond, which only leaves a Line of Credit, which is expensive. Mr. Conaway stated that the purpose of the proposal is to provide some relief to those trying to grow in Sussex County when the marketplace restarts; he noted that a one year extension probably won’t help a lot and perhaps the Council would consider a longer extension. Mr. Conaway stated that this proposal would not affect time sensitive approvals.

The Council discussed the proposal with Ms. Grimes, Mr. Conaway, and Mr. Rider.

With a consensus from the Council, Mr. Vincent asked Mr. Lank and Mr. Godwin to develop a draft ordinance relating to an extension to approved Residential Planned Communities, Conditional Uses, and Subdivisions for presentation to the Council.

**Public
Hearing/
CDBG**

A Public Hearing was held on the development of a Community Development Block Grant application, which is to be submitted to the Delaware State Housing Authority. The Community Development Block Grant (CDBG) is a federal grant from the Department of HUD to the Delaware State Housing Authority (DSHA). Kent and Sussex Counties compete for the funding by making application to the DSHA.

Mr. Lecates, Director of Sussex County Community Development & Housing, stated that Sussex County’s application will consist of projects in the County and in the municipalities. He reported that staff has met with all the municipalities who have asked for the County’s assistance to make application. Mr. Lecates explained that the primary objective of the Community Development Block Grant Program is the development of viable urban communities, including decent housing, a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. It is also a primary objective to alleviate physical and economic distress through the stimulation of private investment and community revitalization in areas of population out-migration or a stagnating or declining tax base. Eligible applicants are units of general local governments in Sussex and Kent counties, the Kent County Levy Court and the Sussex County Council. Mr. Lecates reported that there is approximately \$2 million available for Sussex County, Kent County, and the municipalities. Projects include housing rehabilitation, demolition and code enforcement, and infrastructure projects, with a priority towards housing rehabilitation. There is a 10 percent required match for infrastructure projects less than \$100,000; a 15 percent required match for infrastructure projects less than \$200,000, and a 20 percent required match for infrastructure projects more than \$200,000. There is a fifty percent (50%) required match for administration required;

administration of the grants is provided by the County’s Community Development & Housing Department. Mr. Lecates reviewed the program eligibility requirements which are based on family size and income. He noted that the average grant per homeowner is \$15,000.00 (CDBG) and \$3,000.00 (HPG).

Public
Hearing/
CDBG
(continued)

Mr. Lecates stated that the major policy change is that the County requested emergency funding for small emergency projects. In the past few years, the County Council has provided funding for emergency projects; however, this amount was reduced in the past budget year from \$100,000 to \$30,000.

Mr. Lecates reviewed a draft Resolution that listed the projects to be submitted to the Delaware State Housing Authority for CDBG funding, as follows:

Application No. 1:

Scatter Site	\$ 390,000	Housing Rehabilitation
Scatter Site - Emergency Rehab	100,000	Emergency Rehabilitation
Scatter Site Hook-ups – Pinetown Dagsboro, Ocean View, Millville	60,000	Hook-ups - Sewer/Water
Rural Ellendale	100,000	Housing Rehabilitation
Rural Dagsboro/Millsboro	100,000	Housing Rehabilitation
Cool Spring	90,000	Housing Rehabilitation
Lincoln/Greentop Administration	100,000	Housing Rehabilitation
	<u>160,000</u>	
Total	\$1,100,000	

Application No. 2:

Blades	\$ 80,000	Housing Rehabilitation
--------	-----------	------------------------

Application No. 3:

Bridgeville	\$ 140,000	Housing Rehabilitation
-------------	------------	------------------------

Application No. 4:

Delmar	\$ 140,000	Housing Rehabilitation
--------	------------	------------------------

Application No. 5:

Ellendale	\$ 80,000	Housing Rehabilitation
-----------	-----------	------------------------

Application No. 6:

	\$ 169,745	Infrastructure
<u>Application No. 7</u>		
Greenwood	\$ 80,000	Housing Rehabilitation
<u>Application No. 8</u>		
Laurel	\$ 180,000	Housing Rehabilitation
<u>Application No. 9:</u>		
Milford	\$ 180,000	Housing Rehabilitation
<u>Application No. 10:</u>		
Milton	\$ 80,000	Housing Rehabilitation
<u>Application No. 11:</u>		
Seaford	\$ 180,000	Housing Rehabilitation
<u>Application No. 12:</u>		
Selbyville	\$ 80,000	Housing Rehabilitation

**Public
Hearing/
CDBG
Program
(continued)**

Brad Whaley, Assistant Director, reported that over the past eleven years, Sussex County has received over \$11 million in Community Development Block Grant funding. A large majority of that funding has been used for housing rehabilitation for low to moderate income residents. The County has assisted approximately 1,600 households over the past 11 years. In 2010, the County received \$1,134,000 in CDBG and HOME funding; to date, approximately 70 percent of that amount has been allocated, approximately 50 percent of the work is completed, and 20 percent is under contract. Mr. Whaley stated that over 800 people are on the waiting list.

Mr. Cole commented on the length of the waiting list and he suggested that the Council consider contributing more funding to this effort.

There were no public comments and the Public Hearing was closed.

**M 064 11
Adopt
R 012 11**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 012 11 entitled “ENDORISING PROJECTS TO BE SUBMITTED TO THE DELAWARE STATE HOUSING AUTHORITY FOR FUNDING FROM THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND AUTHORIZING DAVID B. BAKER, COUNTY ADMINISTRATOR, TO SUBMIT APPLICATIONS”.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**M 065 11
Adopt
R 013 11
M 065 11
(continued)**

A Motion was made by Mrs. Deaver, seconded by Mr. Cole, to Adopt Resolution No. R 013 11 entitled “RECOGNIZING THE IMPORTANCE OF FAIR HOUSING FOR THE CITIZENS OF SUSSEX COUNTY”.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Windmill
Zoning
Regulations**

Mr. Baker reported on windmill zoning regulations. Effective July 1, 2010, the Board of Adjustment no longer has the ability to issue variances regarding windmills. Therefore, there are no building permits being issued for windmills on less than 5 acres. This is due to recent State legislation which eliminates the Board of Adjustment from any role in the process. For properties with greater than 5 acres, windmills can be built subject to the various regulations approved by the State of Delaware.

On October 5, 2010, the Council discussed windmill zoning regulations with Paul Driscoll from Urban Research & Development Corporation and Rick Berl, Assistant County Attorney. On October 19, 2010, the Council discussed the matter again and a report from Paul Driscoll was reviewed. In his report, Mr. Driscoll recommended possible amendments to the County Code regarding this item:

- 1. Eliminate the five-acre minimum lot size.**
- 2. Eliminate the need for a special use exception approval for turbines of less than 100 feet in height – allow them instead as accessory uses.**
- 3. Eliminate any requirement that the property must be a farm.**
- 4. Establish a maximum of one wind turbine per lot in most districts to ensure the wind turbine is an accessory use only. This would be consistent with the State law reference to wind turbines that are “for a residential single-family home”.**
- 5. Incorporate each of the other State standards into the County’s zoning ordinance. This would include a maximum setback, maximum noise levels, a prohibition against advertising, a requirement for underground wiring, and a requirement for mandatory buffering around wind turbines near buildings on the National Register of Historic Places.**

Mr. Baker reported that the proposed amendments have been reviewed by Paul Driscoll, Lawrence Lank, Vince Robertson, and Richard Berl. The amendments would enable residents on properties less than 5 acres to

construct a windmill subject to the various requirements in accordance with State law, one of which is that there would be a setback required (on all sides) equal to one times the turbine height from adjoining property owners.

**Windmill
Zoning
Regulations
(continued)**

Mr. Baker reported that, at the October 19th Council meeting, Mr. Cole stated that the Council may wish to lobby the State legislature to allow homeowners associations to regulate wind turbines. Mr. Baker noted that the new State legislation took away this ability.

Mr. Baker noted that an ordinance would have to be drafted to make these types of changes.

Questions were raised regarding private deed restrictions, minimum lot size, and inspections.

Mr. Moore stated that Patrick Vanderslice (law firm of Moore and Rutt), Lawrence Lank, Richard Berl, and Vince Robertson have scheduled a meeting on Friday, February 4th, to discuss this matter for the purpose of drafting an ordinance to be considered by the Council.

**West
Complex
Office
Space
Proposal**

With a consensus of the Council, Mr. Vincent requested the drafting of an ordinance relating to windmills.

Mr. Baker reported that the Delaware National Bank moved from the West Complex several months ago and the third floor that they previously occupied has been vacant. Mr. Baker proposed to move the Addressing Department currently located on the second floor of the West Complex to the third floor and to move the Information Technology Department from the Administrative Office Building on The Circle to the West Complex third floor. By linking these two departments on the same floor, they will be able to work more closely together as the County moves forward with its plan to take further advantage of Geographic Information Systems (GIS) for a basis for its software; having Information Technology and Addressing together will help as the County converts to a new software package. This move will also provide some additional space for growth of these departments in the future.

Mr. Baker reported that the Information Technology Department will maintain one or two employees in the County Administration Building to handle various needs that arise on a daily basis. It is estimated at this time that there will be approximately 14 employees on the third floor of the West Complex if this move transpires. This includes five Addressing employees and nine Information Technology employees. Mr. Baker noted that there is some wiring work to be done on the third floor to enable this change to transpire; additionally, there is some construction of temporary walls, doors, etc., in order to accomplish this change. The estimated cost is \$35,000.

Mr. Cole expressed concern that there is no security at the West Complex

Adminis-
trator's
Report

and he recommended that the County consider this as part of the plan.

Mr. Baker read the following information in his Administrator's Report:

1. Notice of Abandonment of Right-of-Way

Adminis-
trator's
Report
(continued)

The County has received a copy of a request to abandon a portion of a right-of-way of the Shortly Road. The Delaware Department of Transportation does not oppose the abandonment of this portion of the subdivision right-of-way. The County has not taken a position regarding this matter.

2. Personnel Director – Karen Brewington

We are pleased to welcome the new County Director of Personnel, Ms. Karen Brewington. Ms. Brewington has extensive education and experience with human resource issues. She will be assisted by our dependable staff in the Personnel Department. We look forward to working with Ms. Brewington in the future.

3. Former State Representative Tina Fallon

We regret to announce the passing of former State Representative Tina Fallon. Representative Fallon served the Seaford area in the House of Representatives from 1978 until 2006. She strongly represented her constituents with great enthusiasm. As a former teacher, Representative Fallon particularly strived to improve our education system. She always supported the residents of Sussex County.

Accounts

M 066 11
Adopt
R 010 11

Mrs. Webb presented a proposal to open two new deposit accounts.

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Resolution No. R 010 11 entitled "AUTHORIZING THE PAYMENT FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE FULTON BANK BEARING THE SIGNATURES OF ANY TWO OF MICHAEL H. VINCENT, PRESIDENT; SAMUEL R. WILSON, JR., VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL".

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 067 11
Adopt
R 011 11

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Resolution No. R 011 11 entitled "AUTHORIZING THE PAYMENT

FROM FUNDS OF THE SUSSEX COUNTY COUNCIL ON DEPOSIT WITH THE SUSSEX COUNTY FEDERAL CREDIT UNION BEARING THE SIGNATURES OF ANY TWO OF MICHAEL H. VINCENT, PRESIDENT; SAMUEL R WILSON, JR., VICE PRESIDENT; OR SUSAN M. WEBB, FINANCE DIRECTOR; AND A SIGNATURE MAY BE A FACSIMILE PROVIDED ONE LIVE SIGNATURE IS ON CHECK OR WITHDRAWAL”.

**M 067 11
(continued)**

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Wastewater
Agreement**

Mr. Godwin presented a Wastewater Agreement for the Council’s consideration.

**M 068 11
Approve
Wastewater
Agreement/
Breakwater
Estates,
Phase 3**

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, Agreement No. 895-1, that the Sussex County Council execute a Construction Administration and Construction Inspection Agreement between Sussex County Council and Breakwater, LLC, for wastewater facilities to be constructed in Breakwater Estates, Phase 3, located in the West Rehoboth Expansion of the Bethany Beach Sanitary Sewer District.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Local Law
Enforce-
ment
Grant
Requests**

Mr. Godwin presented the following requests for Local Law Enforcement Grants:

Milton \$20,000.00 Salary Enhancement

South Bethany \$20,000.00 Digital In-Car Video System

**M 069 11
Approve
Local Law
Enforce-
ment
Grants**

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, that the Sussex County Council approves the following two disbursements from the Local Law Enforcement Grant Fund: Milton (\$20,000.00) and South Bethany (\$20,000.00).

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;**

**Inland Bays
Regional
Wastewater
Facility/
Change
Order**

Mr. Vincent, Yea

Michael Izzo, County Engineer, presented Change Order No. 4 in the credit amount of \$177,810.00 for Sussex County Project No. 09-19, Inland Bays Regional Wastewater Facility, Phase 1 Expansion. Mr. Izzo explained that the credit Change Order is a result of changes to power and communication duct banks throughout the project.

**M 070 11
Approve
Change
Order
for Inland
Bays
Regional
Wastewater
Facility
Contract**

A Motion was made by Mr. Phillips, seconded by Mr. Cole, based upon the recommendation of the Sussex County Engineering Department, that Change Order No. 4 for Sussex County Project No. 09-19, Inland Bays Regional Wastewater Facility, Phase 1 Expansion, be approved in the credit amount of \$177,810.00, which decreases the contract total to \$12,850,713.00, contingent upon the receipt of approval from the funding agencies.

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

**Old
Business/
C/Z 1691
and
C/U 1849**

The Council discussed Change of Zone No. 1691 and Conditional Use No. 1849 filed on behalf of Linder & Company, Inc., c/o Andrea Finerosky.

The Planning and Zoning Commission held a Public Hearing on the applications on November 10, 2010 at which time action was deferred. On December 9, 2010, the Commission recommended that the applications be approved. The Conditional Use was approved subject to the following conditions:

- 1. The recommendation is conditioned upon the rezoning of the entire property to GR General Residential by County Council.**
- 2. There shall be no more than 200 units within the development.**
- 3. All entrances, intersections, roadways and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT's determination.**
- 4. Recreation amenities shall be completed within the project as follows:**
 - a. Community Center/Clubhouse, pool, playground and courts shall be completed on or before the issuance of the 50th Certificate of Compliance/Occupancy.**
 - b. Multi-modal recreational facilities shall be completed on or before the 100th Certificate of Compliance/Occupancy.**
- 5. The development shall be served as part of the Millville Expansion of the Bethany Beach Sanitary Sewer District.**
- 6. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.**

Old
Business/
C/Z
No. 1691
and
C/U 1849
(continued)

7. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.
8. No wetlands shall be disturbed except as authorized by State and Federal permits.
9. Interior street design shall comply with or exceed Sussex County standards and shall include sidewalks or multi-modal pathways on one side of all streets with street lighting.
10. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
11. The Applicant shall consult with the local school district's Transportation Manager to determine if a school bus stop is appropriate.
12. Construction, site work, excavation, grading and deliveries to or from the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday.
13. The Final Site Plan shall include a landscape plan for the development. Landscape and lawn maintenance shall be the responsibility of the developer or the condominium association.
14. For excavation of the large pond at the center of the development, which has similar characteristics to a borrow pit, the following conditions shall apply to protect the neighboring residential properties and roadways:
 - a. No dredging shall be permitted.
 - b. Water or a water truck shall be available to control dust when conditions require.
 - c. No materials shall be brought from off-site for processing, mixing, or similar purposes.
 - d. A construction entrance for the excavation operations shall be established and maintained in good condition.
15. The Final Site Plan for this development shall contain the approval of the Sussex Conservation District.

M 071 11
Adopt
Ordinance
No. 2175/
C/Z 1691

The County Council held a Public Hearing on the applications on November 30, 2010 at which time action was deferred.

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to Adopt Ordinance No. 2175 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A GR GENERAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 34 ACRES, MORE OR LESS" (Change of Zone No. 1691) filed on behalf of Linder & Company, c/o Andrea Finersoky.

Motion Adopted: 5 Yeas.

Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea

M 072 11
Adopt
Ordinance
No. 2176/
C/U 1849
M 072 11
Adopt
Ordinance
No. 2176/
C/U 1849
(continued)

A Motion was made by Mr. Cole, seconded by Mrs. Deaver, to Adopt Ordinance No. 2176 entitled “AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR MULTI-FAMILY DWELLING STRUCTURES TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 48.3595 ACRES, MORE OR LESS” (Conditional Use No. 1849) filed on behalf of Linder & Company, Inc., c/o Andrea Finerosky, with the following conditions:

1. There shall be no more than 200 units within the development.
2. All entrances, intersections, roadways and multi-modal improvements required by DelDOT shall be completed by the Applicant in accordance with DelDOT’s determination.
3. Recreation amenities shall be completed within the project as follows:
 - a. Community Center/Clubhouse, pool, playground and courts shall be completed on or before the issuance of the 50th Certificate of Compliance/Occupancy.
 - b. Multi-modal recreational facilities shall be completed on or before the 100th Certificate of Compliance/Occupancy.
4. The development shall be served as part of the Millville Expansion of the Bethany Beach Sanitary Sewer District.
5. The development shall be served by a central water system providing adequate drinking water and fire protection as required by applicable regulations.
6. Stormwater management and erosion and sediment control shall be constructed in accordance with applicable State and County requirements, and the project shall utilize Best Management Practices to construct and maintain these fixtures.
7. No wetlands shall be disturbed except as authorized by State and Federal permits.
8. Interior street design shall comply with or exceed Sussex County standards and shall include sidewalks or multi-modal pathways on one side of all streets with street lighting.
9. Road naming and addressing shall be subject to the review and approval of the Sussex County Mapping and Addressing Department.
10. The Applicant shall consult with the local school district’s Transportation Manager to determine if a school bus stop is appropriate.
11. Construction, site work, excavation, grading and deliveries to or from the property shall only occur between the hours of 7:00 a.m. to 6:00 p.m. Monday through Saturday.
12. The Final Site Plan shall include a landscape plan for the

development. Landscape and lawn maintenance shall be the responsibility of the developer or the condominium association.

13. For excavation of the large pond at the center of the development, which has similar characteristics to a borrow pit, the following conditions shall apply to protect the neighboring residential properties and roadways:
 - a. No dredging shall be permitted.
 - b. Water or a water truck shall be available to control dust when conditions require.
 - c. No materials shall be brought from off-site for processing, mixing, or similar purposes.
 - d. A construction entrance for the excavation operations shall be established and maintained in good condition.
14. The Final Site Plan for this development shall contain the approval of the Sussex Conservation District.

M 072 11
Adopt
Ordinance
No. 2176/
C/U 1849
(continued)

Motion Adopted: 5 Yeas.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Yea;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Yea**

Old
Business/
C/U 1867

The Council discussed Conditional Use No. 1867 field on behalf of Lawson's Produce, LLC.

The Planning and Zoning Commission held a Public Hearing on this application on October 28, 2010 at which time action was deferred. On November 10, 2010, the Commission recommended that the application be approved with the following conditions:

1. The use shall be limited to a mulching facility only. There shall not be any composting permitted on the site. No lumber, stumps or construction waste shall be accepted at the site.
2. The Applicant shall install a 6-foot tall solid vinyl fence along the western boundary of the mulching operation, screening and separating the operation from adjacent neighbors. The location of the fence shall be shown on the Final Site Plan.
3. Grinding and dyeing or processing hours will be limited to 9:00 a.m. to 6:00 p.m. Monday through Saturday.
4. There shall be no grinding or dyeing operations within 100 feet of any neighboring property line. The areas set aside for grinding and dyeing shall be shown on the Final Site Plan.
5. There shall not be any mulch storage within 20 feet of neighboring property line. The areas set aside for mulch storage shall be shown on the Final Site Plan.
6. The Applicant shall control delivery of wood and tree materials to the site. Acceptance hours will be limited to 9:00 a.m. to 6:00 p.m. Monday through Saturday. The site shall be gated so that after-hours deliveries or dumping do not occur.

7. Sales and delivery hours will be limited to 9:00 a.m. to 6:00 p.m. seven (7) days per week.
8. Water shall be available to control dust and for fire prevention within the site.
9. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

**Old
Business/
C/U 1867
(continued)**

The County Council held a Public Hearing on this application on November 16, 2010 at which time they deferred action and requested that the Planning and Zoning Department submit a comparison report of the Planning and Zoning Commission's recommended conditions and the Applicant's proposed conditions. Lawrence Lank, Director of Planning and Zoning, noted that the comparison report was previously distributed to the Council members.

**M 073 11
Delete
Conditions/
C/U 1867**

A Motion was made by Mrs. Deaver, seconded by Mr. Wilson, to delete Condition Nos. 2, 6 and 7 recommended by the Planning and Zoning Commission for Conditional Use No. 1867.

Motion Adopted: 3 Yeas, 2 Nays.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Nay;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Nay**

**M 074 11
Adopt
Ordinance
No. 2177/
C/U 1867**

A Motion was made by Mr. Wilson, seconded by Mr. Vincent, to Adopt Ordinance No. 2177 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MULCH FACILITY TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROADKILL HUNDRED, SUSSEX COUNTY, CONTAINING 2.20 ACRES, MORE OR LESS" (Conditional Use No. 1867) filed on behalf of Lawson's Produce, LLC., with the following conditions:

1. The use shall be limited to a mulching facility only. There shall not be any composting permitted on the site. No lumber, stumps or construction waste shall be accepted at the site.
2. Grinding and dyeing or processing hours will be limited to 9:00 a.m. to 6:00 p.m. Monday through Saturday.
3. There shall be no grinding or dyeing operations within 100 feet of any neighboring property line. The areas set aside for grinding and dyeing shall be shown on the Final Site Plan.
4. There shall not be any mulch storage within 20 feet of any neighboring property line. The areas set aside for mulch storage shall be shown on the Final Site Plan.
5. Water shall be available to control dust and for fire prevention within the site.
6. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission.

Motion Adopted: 3 Yeas, 2 Nays.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Nay;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Nay**

Request

**M 075 11
Community
Grant**

Mrs. Webb presented a grant request for the Council's consideration.

A Motion was made by Mrs. Deaver, seconded by Mr. Phillips, to give \$300.00 from Mrs. Deaver's Community Grant Account to Teen Missions for Hannah Fay Costello to participate in the Nepal project.

Motion Adopted: 3 Yeas, 2 Nays.

**Vote by Roll Call: Mrs. Deaver, Yea; Mr. Cole, Nay;
Mr. Phillips, Yea; Mr. Wilson, Yea;
Mr. Vincent, Nay**

**Additional
Business**

Under Additional Business, Matt Walsh questioned when local officials will take the next step to protect residents from sex offenders and expand the distance between where they can live near children and women.

Under Additional Business, Mr. Cole questioned the status of a temporary cell phone tower located in the Bethany area. Lawrence Lank, Director of Planning and Zoning, responded that, on this date, a letter has been sent to AT&T requesting that the tower be removed.

Under Additional Business, Mrs. Deaver questioned the status of a Public Facilities Ordinance. Mr. Baker responded that several draft ordinances have been prepared and will be scheduled for discussion by the Council.

**M 076 11
Adjourn**

A Motion was made by Mr. Cole, seconded by Mr. Phillips, to adjourn at 12:14 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,

**Robin A. Griffith
Clerk of the Council**

